

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 18-CR-20489

Plaintiff,

Thomas L. Ludington
United States District Judge

v.

JAMES D. PIERON, JR.,

Patricia T. Morris
United States Magistrate Judge

Defendant.

/

GOVERNMENT'S SUPPLEMENTAL RESPONSE TO
MOTION FOR CONTINUANCE

Defendant James D. Pieron, Jr., filed a motion for a continuance. (R. 18: Defendant's Motion for Continuance, 63-67). Though the government filed an initial response to Pieron's motion for a continuance (R. 26: Govt's Response, 126-27), the government files a supplemental response below.

Brief

James D. Pieron, Jr., asked the court to postpone the trial in his case from December 4, 2018 to an unspecified later date. (R. 18: Defendant's Motion for Continuance, 63-67). Pieron's motion for an adjournment of his trial was based in large part on his counsel's involvement with a trial in *United States v. Pursley*, then scheduled to begin on November 27, 2018, and his local counsel's involvement in a trial then scheduled to begin in Flint on January 22, 2019. (*Id.*,

66). Pieron agreed in his motion that the time of the adjournment of his December 4, 2018 trial date was excludable under the Speedy Trial Act. (*Id.*, 65).¹

On November 7, 2018, during a discussion held in chambers, the court granted Pieron's motion and adjourned his trial to February 26, 2019.

Subsequently, counsel for the government have learned that the *Pursley* trial has been adjourned without date and the defendant in the January 22, 2019 trial involving Pieron's local counsel has signed a Rule 11 plea agreement. It thus appears that the recited trial conflicts for Pieron's counsel are not an impediment to starting the Pieron trial on the current trial date of February 26, 2019.

However, government's counsel makes this supplemental response for two reasons. First, other than the reference to the February 26, 2019 trial date in the government's initial response to Pieron's motion to adjourn his trial (R. 26: Govt's Response, 126), the docket apparently does not reflect Pieron's February 26, 2019 trial date. Second, and more important, the docket also does not reflect the acknowledgement made by Pieron in his motion, and relied upon by the court in

¹ The citation to 18 U.S.C. §3161(h)(8) in Pieron's motion (R. 18: Defendant's Motion for Continuance, 65), in context, appears to be a citation to an earlier version of the Speedy Trial Act, in which the subsection now codified as §3161(h)(7) was found at §3161(h)(8). (See Pub. L. 10406, Technical Amendments Act, §13, deleting (h)(5) and renumbering (h)(6) - (h)(8), effective October 13, 2008). That change in codification has generated many footnotes in legal documents discussing the same contextual provisions of the STA. It is not worth contemplating whether the person(s) who changed the codification ever contemplated the complication that the change created.

adjourning the December 4, 2018 trial date, that the time from December 4, 2018 to February 26, 2019 is an “ends of justice” excludable period of delay under the Speedy Trial Act. That finding is appropriate because Pieron’s trial was adjourned at Pieron’s request to provide him continuity of counsel. 18 U.S.C.

§3161(h)(7)(A) and (B)(iv). These matters need to be addressed by the court.

Therefore, the court should enter a written order documenting the fact that the court has granted Pieron’s motion to adjourn and scheduled Pieron’s trial for February 26, 2019, and include the court’s prior finding that the period between December 4, 2018 and February 26, 2019 is excludable under the Speedy Trial Act because an “ends of justice” adjournment was granted to provide James D. Pieron, Jr., continuity of counsel. 18 U.S.C. §3161(h)(7)(A) and (B)(iv) .

Respectfully submitted,

Date: December 10, 2018

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Certificate

On December 10, 2018 I filed this pleading by using the Clerk of the Court’s ECF system. The ECF system will automatically serve counsel of record.

s/Janet L. Parker